bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3269 OF 2007

Brajesh Dinanath Dubey ... Petitioner

V/s

Chairman/Secretary,
Rashtrabhasha Hindi Prachar Mandal
& ors. ... Respondents

Mr. Jaydeo Trivedi i/by M/s. M.P.Vashi & Associates for the petitioner.

Ms. Gauri Godse for the respondent No.1.

Mr. Y.D.Mulani, A.G.P. for the respondent No.3.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 18TH OCTOBER, 2007.

P.C.:

1. The petition has been filed against the order of the School Tribunal refusing to condone the delay in filing the appeal. The School Tribunal has concluded that the delay is unexplained by the petitioner and, therefore, has rejected the application. The petitioner contends that his services were terminated on 6.11.2006 when he was refused permission to sign the muster roll. The appeal has been filed on 19.1.2007 and an application for condoning the delay has also been filed.

2. The respondent Nos. 1 and 2 have filed a reply before the School Tribunal contending that the services of the petitioner came to an end from 30.4.2006 due to efflux of time. The petitioner had been appointed on a temporary basis for the academic year 2005-2006. The Tribunal has proceeded to ascertain whether the termination was effected on 30.4.2006 or as contended by the petitioner on 6.11.2006. The Tribunal has found that there was no evidence produced by the petitioner indicating that he had continued in service from 30.4.2006 till 6.11.2006. The Tribunal had, therefore, dismissed the appeal.

3. The petitioner has with his rejoinder filed several documents which, according to him, indicate that he was in service even after 30.4.2006 upto 6.11.2006. According to the school management, these documents have been fabricated and are not the photo copies of the originals.

4. In my opinion, it would not be possible to ascertain the veracity of these documents in the writ petition. Therefore, in order to give an opportunity to the petitioner to prove that he has a genuine reason to file the appeal beyond the period of limitation as contended

by the management, the matter is remanded to the School Tribunal.

5. The order of the School Tribunal is set aside.

6. The Tribunal will consider the pleadings which are on record before it. The School Tribunal will consider the evidence which is already led and the documents which the petitioner has annexed to this petition as well as the affidavit in rejoinder filed in this Court in the present writ petition. The Tribunal will permit the school management to produce the originals of the documents, the photocopies of which the petitioner relies on i.e. the original of the documents annexed to the petition and affidavit in rejoinder and which are in the custody of the management. No further documents will be entertained by the School Tribunal from the petitioners. The School Tribunal to decide the application as expeditiously as possible. The Tribunal will consider the veracity of the documents and will also consider whether the documents produced by the petitioner are fabricated as contended by the management. In the event the Tribunal concludes that the documents produced by the petitioner are fabricated, the Tribunal will take action in accordance with law, including action under the Indian Penal Code.

7. Writ petition disposed of accordingly.

.....